

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

PERIODIC REPORTING
(PROPOSAL THIRTEEN)

Docket No. RM2015-7

**MOTION OF THE UNITED STATES POSTAL SERVICE TO STRIKE
THIRD SET OF MODELS SUBMITTED BY UNITED PARCEL SERVICE**
(July 27, 2015)

On July 22, 2015, UPS filed its third set of alternative econometric models in this docket. The submission of yet another set of models at this late stage in the proceeding constitutes a gross violation of the due process rights of the Postal Service and other interested parties. UPS, advancing one moving target after another, has demolished any prospects for the orderly conduct of this proceeding in accordance with the procedures established by the Commission. The only way to stop the carousel and force UPS off is to strike the latest set of unauthorized models and confine the record to materials which the parties have previously been provided a fair ability to evaluate. Accordingly, the Postal Service requests that the Commission strike the new models submitted by UPS on July 22.

Background

The Postal Service submitted one set of models in Proposal Thirteen when it filed its Petition on December 11, 2014. Those models were the product of a research path fully vetted and discussed with the Commission and all interested parties over a period of several years. Those models have not changed since December. UPS, on the other hand, filed its first set of models on March 18, 2015, over three months after the Postal Service's filing.

With that first set of models on March 18th, UPS filed a request for access to additional data, so that it could also pursue another alternative set of models. The Postal Service opposed that request for many reasons, among them that UPS was attempting to wrest control of the procedural schedule away from the Commission. Postal Service Opposition to UPS Motion for Information Request (March 30, 2015) at

3. Over the Postal Service's objection, the Commission granted the UPS request, but specifically cautioned:

The Commission agrees with the Postal Service that expanded access could unduly delay this proceeding. However, UPS has suggested that consideration of its cost model can be completed within a period that allows for issuance of a Commission decision (based on either model) in time for incorporation into the FY 2015 Annual Compliance Review. Barring unforeseen developments, the Commission concludes that UPS's request appears reasonable at this time. Should events prove otherwise, the Commission can take action to ensure that the objective of issuing a decision in time for preparation of the FY 2015 ACR is met.

Order No. 2455 (April 23, 2015) at 10.

But Order No. 2455 then took a very curious (and unexplained) course. Having authorized UPS to file additional models beyond those submitted on March 18, one might have expected the Order to establish a new procedural schedule that (1) suspended the impending due date for replies to UPS; (2) set a date that allowed UPS time to prepare and submit its additional models; and (3) set a new date that allowed parties to respond to the complete set of all UPS models in one reply pleading. Instead, the Order required the parties to reply to the first set of UPS models (the March 18th models) on May 13, but did not require UPS to submit the supplemental report presenting its additional models until June 8. Order No. 2455 at 12. In preparing its

supplemental report, therefore, UPS already had advance knowledge of what types of criticism might be leveled at its analysis.

UPS took full advantage of the unwarranted advantage it obtained from this feature of the schedule promulgated in Order No. 2455. On June 8, UPS filed comments that included a large section (pages 6-14) specifically replying to the Postal Service's May 13th Comments. But UPS did not stop there. It filed not only the new models specifically contemplated by Order No. 2455, but also expressly incorporated changes specifically attempting to address deficiencies in the original models identified by the Postal Service in its May 13th comments. In any event, the record on June 8th certainly appeared like it contained all of the models (the second set) the Commission would need to evaluate the UPS arguments.

On that basis, the Postal Service (and Amazon) offered comments on July 8. Numerous deficiencies in the second set of models were identified and discussed by Prof. Bradley and Prof. Lundblad. The obvious validity of those criticisms was confirmed by the fact that UPS felt compelled to come back in what were merely supposed to be reply comments with yet another set of new models (the third set).¹ The

¹ UPS was presumably greatly aided in its ability to prepare and submit yet another set of models in the time period allotted for reply comments by seeking and obtaining an extension that doubled the length of the interval set by Order No. 2455 between the due date for comments on the UPS supplemental report and the due date for replies to those comments. See Order No. 2571 (July 8, 2015). The Commission discounted the objections of the Postal Service to this request on the grounds that the Postal Service had not offered support for the assertion that its interests would be prejudiced by the extension. *Id.* at 4. Of course, the Postal Service at that time could only have offered speculation that UPS might take the additional time to prepare material outside the scope of appropriate reply comments. Now, there is no need to speculate, because those circumstances have manifestly come to pass.

new models unabashedly incorporated revisions in response to the deficiencies identified by Prof. Bradley and Prof. Lundblad.

Argument

Throughout this proceeding, UPS has engaged in tactics of continual misdirection and evasion. Every time a criticism of a UPS model is advanced to which UPS has no defense, it simply provides a new model and claims the criticism is no longer applicable. While such a strategy may serve the purposes of UPS, it is anathema to rational administrative procedure. If UPS cannot get its model right, it is not incumbent on the Postal Service or Amazon to fix it for them. Under Order No. 2455, UPS was to be afforded the opportunity to present an alternative cost “model,” not a never-ending series of cost “models.” Its obligation was to provide its preferred alternative model on June 8th, not July 22nd.

Reply comments do not afford an opportunity to perform wholesale revisions to the substance of what opposing parties have been allowed to evaluate and criticize. The Postal Service is not suggesting that UPS should not have been allowed to submit quantitative analysis with its reply comments. But any such analysis would properly have been limited to defending the results of the model previously provided, not coming up with entirely new results from new models, upon which the Commission is then encouraged to rely. See UPS Reply Comments (July 22, 2013) at 18-19.² And, lest there be any uncertainty on the matter, the new models are not just slight modifications

² While the UPS Reply Comments were filed on July 22, 2015, the Second Supplemental Report of Dr. Neels itself was not available until the next day, July 23, 2015.

of the June 8 filing, but involve complicated new methods that contained unverified assumptions and potentially controversial methods.³

The only viable solution to the unacceptable practice of UPS of providing a constantly moving target is to strike the new set of models improperly filed on July 22nd, and limit consideration to the alternative set of models timely submitted on June 8th. If

³ Examples of these unexplored complications (based on very preliminary review of the extensive new materials filed nonpublicly) are presented below. Note, this inclusion is not intended to raise a debate on the validity of each of the concerns expressed, but rather to highlight the fact that substantial changes have been made in Dr. Neels' models and methods.

1. Dr. Neels now constructs seemingly complicated and convoluted "intertemporal volume change indexes" which appear to combine one-year's (FY2014) distribution key percentages (which UPS apparently calls "horizontal" data) with multiple years of RPW volume counts (which UPS apparently calls "vertical" data). Moreover he somehow "interpolates" the annual data into monthly data. Dr. Neels does not explain why different distribution keys from each year were not used, nor does he provide the definitions of the volume variables used. He claims now to produce only one cross sectional forecast for each ZIP Code and then mechanically adjust each of those forecasts in the exact same way across years. These "intertemporal volume change indexes" are new and unusual and would need to be extensively evaluated to see exactly how they are constructed and to determine what they actually accomplish.
2. Dr. Neels abandons his negative binomial imputation equations, allegedly because their additional complexity is now unnecessary. But neither the complexity of the imputation problem nor the complexity of the data changed at all between June 8 and July 22, so this justification needs to be evaluated carefully. Moreover, given that his first set of imputation equations did a dramatically poor job at forecasting actual parcel volumes, his second set of equations also would have to be thoroughly investigated.
3. Dr. Neels now combines in-receptacle parcels and deviation parcels into a single equation to estimate his Form 3999 street time variability equation. However, he appears to still separately impute deviation parcels and in-receptacle parcels. Yet he does not present his previous model (including both parcel variables) with the new imputations, so that the new imputations could be evaluated. Furthermore, it is not clear one should separately impute in-receptacle and deviation parcels when one uses only aggregate parcels in a variability equation.

UPS was unable to present a usable set of models on the date specified by Order No. 2455, the fault lies with none but UPS. Although UPS chose to begin its active participation in the effort only several months ago, the Postal Service, the Commission, and other interested parties have been working on this research for well over three years now. As quoted above, the Commission put UPS on notice in Order 2455 that it was prepared to take necessary action to protect this proceeding from undue delay. The time has come to make good on that promise and refuse to consider the new models improperly submitted by UPS under the guise of Reply Comments.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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